



Internal Audit Report

DBE and HUB Management and Reporting

Objective

To evaluate the effectiveness of Disadvantaged Business Enterprise (DBE) and Historically Underutilized Business (HUB) management and reporting, including the performance and reporting of Commercially Useful Function (CUF) reviews for DBE firms.

Opinion

Based on the audit scope areas reviewed, control mechanisms require improvement and only partially address risk factors and exposures considered significant relative to impacting reporting reliability, operational execution, and compliance. The organization's system of internal controls requires significant improvement in order to provide reasonable assurance that key goals and objectives will be achieved. Extensive improvements are required to correct control gaps and to address excessive residual risk that may result in potentially significant impacts to the organization including the achievement of the organization's business/control objectives. Progress to address the highest risk areas will likely not be achieved within 6 months.

Overall Engagement Assessment		Needs Improvement		
Findings				
	Title	Control Design	Operating Effectiveness	Rating
Finding 1	Commercially Useful Function Reviews	X	X	Unsatisfactory
Finding 2	Validation and Monitoring of Disadvantaged Business Enterprise Payments	X	X	Needs Improvement
Finding 3	Disadvantaged Business Enterprise Data Compilation and Reporting	X	X	Needs Improvement
Finding 4	Efficiency of Data Consolidation for Historically Underutilized Business Reporting	X		Needs Improvement

Management concurs with the above findings and prepared management action plans to address deficiencies.

Control Environment

The Civil Rights Division (CIV) is responsible for providing oversight and guidance for TxDOT's DBE and HUB Programs, establishing TxDOT's overall and contract-level DBE goals, HUB goals (based on statewide HUB goals established by the Texas Comptroller of Public Accounts (CPA)), and completing required annual and semi-annual reports for submission to external agencies, such as the U.S. Department of Transportation (U.S. DOT, including the Federal Highway Administration (FHWA) and Federal Transit Administration (FTA)) and the CPA.

CIV relies on districts and divisions to supervise DBE performance on individual contracts and to complete CUF reviews based on the policies and procedures established by CIV. DBE Coordinators working for district and division management have been assigned to assist with administering the DBE program within their districts and divisions. Districts and divisions obtain HUB and DBE expenditure data directly from the prime contractor associated with the contract. Improved oversight of the process for monitoring monthly expenditure reporting would help prevent errors from occurring or going undetected prior to

the divisions compiling the expenditure data and providing to CIV for inclusion in external reports.

CUF Reviews of DBE Firms

The purpose of a CUF review is to confirm that a DBE is performing their CUF requirements and that DBE goal credit should be awarded to prime contractors that employ DBEs. Prime contractors receive goal credit for DBE participation that is tracked through their expenditures for DBE services.

CIV establishes policies and procedures, creates CUF review templates, and provides optional training to district and division staff who complete the CUF reviews. Standard operating procedures require that a minimum of one CUF review is completed for each DBE firm performing work on each project. However, there is no reporting or centralized process in place to identify which projects have DBEs and whether a CUF review has been performed.

Within the Construction Division (CST), a DBE Coordinator is assigned for each district and oversees the completion of the CUF reviews. Conducting a CUF review is a joint effort between the field inspector, who performs an on-site inspection of the DBE firm at the job site, and the record keeper, who collects and reviews supporting documentation before finalizing the CUF form for submission to the DBE Coordinator.

Within the Professional Engineering Procurement Services (PEPS) Division, the standard operating procedures require PEPS Service Centers to initiate CUF reviews, which are then conducted by district and division staff. The DBE Coordinator implements and updates PEPS DBE Standard Operating Procedures, as well as, provides technical support and coordination between CIV and PEPS Service Centers.

Within the Aviation Division (AVN), third-party inspectors are hired to complete CUF reviews for construction projects, while the DBE Coordinator performs CUF reviews for professional service related projects.

External DBE and HUB Reporting

CIV has primary responsibility for reporting TxDOT's DBE data to the U.S. DOT. With the exception of AVN, each TxDOT division compiles DBE data from the applicable information systems and submits the data to CIV. CIV then consolidates the data and completes the Uniform Report of DBE Awards/Commitments and Payment (DBE Uniform Report) for submission to FHWA and FTA on a semi-annual and annual basis. AVN reports DBE data directly to the Federal Aviation Administration (FAA) through an online portal.

CIV also submits the Semi-Annual and Annual HUB Reports to the CPA on behalf of TxDOT. Similar to DBE reporting, applicable divisions provide HUB and non-HUB expenditure data to CIV for validation and consolidation into the agency-wide HUB report.

Summary Results

Audit testing completed resulting in management action plans.

Finding	Scope Area	Evidence
1	Commercially Useful Function (CUF) Reviews	<p>Testing of 285 CUF form reviews for projects that were active between September 2016 and February 2018 across fifteen districts and three divisions identified ineffective/unsupported reviews on 280 (98%) forms evaluated:</p> <p><u>Inadequate Supervisory Review</u></p> <ul style="list-style-type: none"> 156 of 285 (55%) CUF forms did not have evidence of a signature indicating DBE Coordinator review and contained one or more deficiencies. 51 of 285 (18%) CUF forms contained one or more deficiencies despite evidence of a DBE Coordinator review. <p><u>Non-Performance of CUF Form and Review</u></p> <ul style="list-style-type: none"> 42 of 285 (15%) CUF forms were not completed for DBEs working on ongoing projects, with payments made to DBEs totaling \$20.6 million. 31 of 285 (11%) CUF forms were not completed and no subsequent review could be performed for payments made to DBEs totaling \$17.7 million.
2	Goal Setting and Project Monitoring	<p>Testing of 272 monthly expenditure reports for projects that were active between September 2016 and February 2018 across fifteen districts and three divisions identified approximately \$1.4 million in DBE payment errors in 34 monthly expenditure reports.</p>
3	DBE and HUB Data Reporting	<p>Evaluation of the annual DBE Uniform Report submitted to FHWA for Fiscal Year (FY) 2017 identified:</p> <ul style="list-style-type: none"> Multiple internal extraction, submission, and consolidation steps need to occur in providing CIV the required reporting data. Key data fields (e.g. total dollars paid, number of DBEs) included in the DBE Uniform Report could not be traced to supporting data.
4	DBE and HUB Data Reporting	<p>Review of the data reporting process for the FY 2017 Annual HUB Report identified:</p> <ul style="list-style-type: none"> HUB expenditure data being submitted to CIV is formatted inconsistently and requires manual adjustments prior to external reporting. Vendor identification numbers used to validate vendors' HUB certification status are not consistently made available or correct upon reporting to CIV. No inaccuracies were identified.

Audit testing completed not resulting in management action plans.

Scope Area	Evidence
Goal Setting and Project Monitoring	<ul style="list-style-type: none">• A review of the methodology used to establish TxDOT's Overall Annual DBE Goal for Highway Design and Construction for FY 2017-2019 found that the goal was accurately calculated and substantiated.• A review of documentation supporting the contract-level DBE goal for a sample of 25 active projects between September 2016 and February 2018 found that the goals were accurately calculated, substantiated, and correctly documented in the system of record.• A review of the implementation plan for the contractor tracking system found that the implementation was coordinated through the Information Management Division (IMD), and controls over user access and data security were designed to protect sensitive information transmitted and maintained within the system.
DBE and HUB Data Reporting	<ul style="list-style-type: none">• A review of the certification status for a judgmental sample of 25 DBE firms who received DBE goal credit for contracts during FY 2017 found that the DBEs were appropriately certified at the time the contracts were executed.• A review of TxDOT's FY 2017 Annual HUB Report found that HUB firms included in the report were appropriately certified during the period.

Audit Scope and Methodology

The scope and methodology used for this audit included:

Scope 1: Goal Setting and Project Monitoring – evaluation of the processes in place to provide effective oversight and monitoring of the DBE and HUB programs, including establishment of agency-wide and contract-level DBE goals, ongoing monitoring of expenditures made to DBE and HUB firms, and the implementation of the contractor tracking system.

Methodology included:

- Reviewed state and federal regulations and TxDOT policies and procedures, including Code of Federal Regulations, Texas Government Code, Texas Administrative Code, District DBE Coordinator Standard Operating Procedures, District DBE Compliance Monitoring Guide, Data Reporting Standard Operating Procedures, Professional Services Contracts DBE Standard Operating Procedures, and AVN Division DBE Standard Operating Procedures.
- Interviewed CIV, AVN, CST, PEPS, and district personnel, including HUB Program Director, Contract Compliance Section Director, DBE Coordinators, and Business Report Writers.
- Reviewed the methodology for establishment of TxDOT's FY 2017-2019 Overall Annual DBE Goals for FHWA to confirm that the goal was accurately calculated and substantiated.

- Reviewed a judgmental sample of 25 contracts for selected districts and divisions to evaluate the accuracy and consistency of contract-level DBE goals.
- Reviewed a judgmental sample of 272 monthly progress reports for selected districts and divisions to determine whether the monthly reports were submitted and reviewed as required.
- Reviewed the contractor tracking system implementation plan design to evaluate for the proper security of sensitive information.

Scope 2: Commercially Useful Function Reviews – evaluation of whether CUF reviews for DBE contracting firms are being performed as outlined by CIV through review of CUF forms and supporting documentation for a judgmental sample of contracts active between September 2016 and February 2018 that utilized DBE firms.

Methodology included:

- Reviewed state and federal regulations and TxDOT policies and procedures, as noted in Scope 1.
- Reviewed guidance and reference materials provided to district and division staff during DBE program training sessions.
- Interviewed CIV, AVN, CST, and PEPS personnel, including Contract Compliance Section Director, DBE Coordinators, Transportation Engineering Supervisors, and Contract Specialist.
- Interviewed selected district personnel to include District DBE Coordinators, record keepers, and inspectors.
- Reviewed a judgmental sample of 285 CUF reviews for selected districts and divisions to determine whether the CUF reviews were performed as required and in accordance with the guidance established by CIV.
- Observed on-site CUF reviews with inspectors in selected districts.

Scope 3: DBE and HUB Data Reporting – evaluation of the accuracy and consistency of the process for external reporting of DBE and HUB data to the U.S. DOT and CPA.

Methodology included:

- Reviewed state and federal regulations and TxDOT policies and procedures, as noted in Scope 1.
- Interviewed CIV, AVN, CST, PEPS, and Procurement Division (PRO) personnel, including HUB Program Director, Business Report Writers, Business Analyst, Contract Specialist, and Accounting Specialists.
- Reviewed a judgmental sample of 25 DBE firms to confirm that DBE certification was valid when contracts were executed.
- Analyzed HUB expenditure data to validate whether expenditures were reported for certified HUB firms.
- Evaluated the process for compiling DBE and HUB data for AVN, CST, PEPS, and PRO.
- Re-performed procedures used to consolidate division DBE data into the Uniform DBE Report.

The audit was performed by Charlita Freeman, Franciou Niclas, Rita Ruiz, Michelle Scharmack, and Amy Cheesman (Engagement Lead). The audit was conducted during the period from March 12, 2018 to June 22, 2018.

Background

This report is prepared for the Texas Transportation Commission and for the Administration and Management of TxDOT. The report presents the results of the DBE and HUB Management and Reporting audit which was conducted as part of the FY 2018 Audit Plan.

Disadvantaged Business Enterprise Program

The DBE program is a federal program created to provide small, minority- and women-owned companies with an equal opportunity to do business with agencies that receive federal funds from the U.S. DOT. In order to increase utilization of DBE firms, TxDOT is required to establish agency-wide participation goals for the DBE program every third fiscal year. The overall goal is comprised of both a race-conscious and a race-neutral component. Race-conscious DBEs are businesses that are selected for contracting opportunities because they are DBE-certified, while race-neutral DBEs are awarded contracting opportunities without regard to DBE status.

In order to achieve the agency-wide goal, race-conscious goals are established on individual contracts funded in whole or in part with federal funds. Goals are expressed as expenditures paid as a percentage of the total contract amount and can be met by DBEs serving as a prime contractor or subcontractor. There are no race-neutral goals for individual contracts; however, any race-neutral DBEs utilized will contribute to TxDOT's overall race-neutral goal. Expenditures made to DBE firms qualify for goal credit only if the DBE is performing a CUF on the contract. A DBE firm serves a CUF if it performs, manages, and supervises the work, including supplying its own materials, laborers, and equipment on the project. To monitor the CUF of the DBEs, TxDOT implemented the CUF review process.

Recipients of U.S. DOT funds are required to keep accurate data regarding the contracting opportunities available to firms paid for with federal funds. DBE contracting data must be reported to appropriate U.S. DOT agencies on an annual and semi-annual basis.

Historically Underutilized Business Program

The statewide HUB program promotes full and equal procurement opportunities for small, minority, and women-owned businesses in an effort to remedy disparity in state procurement and contracting, and in contrast to the DBE program, applies to contracts that are fully state and/or locally funded. For FY 2018, TxDOT adopted the statewide HUB goals established by the CPA based on the State of Texas Disparity Study. TxDOT and its prime contractors must make a good faith effort to meet these HUB goals through contracting directly with HUBs or indirectly through subcontracting opportunities.

HUB aspirational goals are placed on each contract based upon the internal or statewide annual HUB goal. However, the actual goal for a contract is based on contract deliverables and the HUB Subcontracting Plan (HSP) developed by the contractor. State agencies monitor compliance with the HSP based on monthly reports submitted by the contractors. In addition, state agencies must submit semi-annual and annual reports to the CPA with information relating to the use of HUBs, including dollar amount of purchases and payments made to HUBs.

We conducted this performance audit in accordance with Generally Accepted Government Auditing Standards and in conformance with the International Standards for the Professional Practice of Internal Auditing. Those standards require that we plan and perform the audit to

obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. Recommendations to mitigate risks identified were provided to management during the engagement to assist in the formulation of the management action plans included in this report. The Internal Audit Division uses the Committee of Sponsoring Organizations of the Treadway Commission (COSO) Internal Control – Integrated Framework version 2013.

A defined set of control objectives was utilized to focus on reporting, operational, and compliance goals for the identified scope areas. Our audit opinion is an assessment of the health of the overall control environment based on (1) the effectiveness of the enterprise risk management activities throughout the audit period and (2) the degree to which the defined control objectives were being met. Our audit opinion is not a guarantee against reporting misstatement and reliability, operational sub-optimization, or non-compliance, particularly in areas not included in the scope of this audit.

Detailed Findings and Management Action Plans (MAP)**Finding No. 1: Commercially Useful Function (CUF) Reviews****Condition**

The CUF review process is ineffective in providing assurance that Disadvantaged Business Enterprise (DBE) firms are performing work to support accurate DBE goal credit. DBE Coordinator reviews of CUF forms were incomplete and/or inadequate in identifying potential issues that could impact DBE goal credit. Further, there is no agency-wide process in place to monitor or track the completion of required CUF reviews.

Effect/Potential Impact

Inadequate or incomplete validation of a CUF review for a DBE performing work on a project does not provide assurance that TxDOT's DBE goal credit is being accurately awarded for expenditures made on the project or reported to the U.S. Department of Transportation (U.S. DOT).

Furthermore, subcontracting to DBEs who do not perform a CUF limits the subcontracting opportunities that are available for DBEs who would otherwise benefit from the federal DBE program as intended.

Criteria

Code of Federal Regulations, Title 49, Part 26, allows expenditures made to a DBE contractor to be counted toward the DBE goal only if the DBE is performing a CUF, which is defined as performing, managing, and supervising the work.

TxDOT's DBE standard operating procedures specify that a minimum of one CUF review must be completed for each DBE performing work on each project. It is the responsibility of each of the DBE Coordinators to verify that CUF reviews have been conducted and completed accurately to ensure that DBEs working on projects in their respective districts or divisions have met CUF requirements.

In addition, the Civil Rights Division (CIV) DBE Compliance and Monitoring Guide states that CIV is responsible for conducting compliance reviews to ensure the districts are monitoring contractor compliance with the DBE Program requirements. As part of the review, CIV will determine if CUF reviews were conducted properly and checked for adequacy and completion.

Cause

Currently there is no reporting or centralized process in place within the agency to identify which projects have DBEs and whether a CUF review has been performed. In addition, methods for retaining CUF review supporting documentation vary between districts and divisions. While it is suggested that supporting documents should be maintained in the contractor tracking system for applicable construction projects, districts have been maintaining these documents in paper copy files, electronically in shared drives, or other systems.

One division, while having documented procedures, had staff that was unaware of their CUF review responsibilities and was not initiating CUF reviews as required.

Organizational structure also impacts the prioritization of the DBE program:

- DBE Coordinators often have competing priorities, and DBE monitoring is a portion of their multiple responsibilities.
- DBE Coordinators have different reporting structures than inspectors and record keepers, and often cannot impact how CUF reviews are prioritized.

Live training sessions provided by CIV were not mandatory for district staff or third-party inspectors. In addition, district staff were unaware of CUF review requirements (e.g., performing CUF reviews for DBE prime contractors, appropriate levels of supporting documentation, etc.), and which sections of the CUF form should be completed by inspectors rather than record keepers.

Evidence

Testing of 285 CUF form reviews was performed on 124 projects that were active between September 2016 and February 2018, including work authorizations and grants, across fifteen districts and three divisions. Ineffective/unsupported reviews were identified in 280 of the 285 (98%) CUF form reviews that were to have been performed

Inadequate Supervisory Review

- 156 of 285 (55%) CUF forms did not have evidence of a review by a DBE Coordinator and identified one or more of the following deficiencies:
 - 114 CUF forms were not substantiated with supporting documentation.
 - 66 CUF forms contained sections applicable to the work performed by the DBE that were not fully completed.
 - 35 CUF forms included completed sections that were not applicable to the type of work performed by the DBE.
 - 20 CUF forms did not indicate whether the DBE performed the CUF for which it was responsible.
- 51 of 285 (18%) CUF forms did have evidence of a review by a DBE Coordinator but included one or more of the following deficiencies:
 - 50 CUF forms were not substantiated with supporting documentation.
 - 23 CUF forms contained sections applicable to the work performed by the DBE that were not fully completed.
 - 13 CUF forms included completed sections that were not applicable to the type of work performed by the DBE.
 - 2 CUF forms did not indicate whether the DBE performed the CUF for which it was responsible.

Non-Performance of CUF Form and Review

Two hundred and eighty-five CUF forms were reviewed for completeness:

- 42 of 285 (15%) CUF forms were not completed for 33 DBEs performing work on projects that were in process. At least one payment was made to the DBEs, indicating that the DBE initiated work on the project. Payments to these DBEs totaled approximately \$20.6 million for work performed as of May 2018, where a CUF review had yet to be completed.

- 31 of 285 (11%) CUF forms were not complete for 27 DBEs that received final payments for work performed totaling \$17.7 million. As a result, no subsequent review could be performed for these DBEs.

In addition, there is no mechanism in place to identify a population of projects that included the use of DBEs to perform work. As a result, federally-funded projects were reviewed individually to determine whether DBEs were utilized and therefore required a CUF review to be performed.

Management Action Plans (MAPs):

MAP Owner: Dave Tovar, Contract Compliance Section Director, Civil Rights Division

MAP 1.1:

Work with the divisions to develop reporting from the respective systems that will identify projects which have Disadvantaged Business Enterprises and need or have completed a Commercially Useful Function review.

Completion Date: December 15, 2018

MAP 1.2:

Using the reporting developed in MAP 1.1, a process will be developed, documented and communicated to monitor the completion of the Commercially Useful Function reviews statewide. In addition to the review requirements, this process will also establish the frequency in which the monitoring will occur.

Completion Date: December 15, 2018

MAP 1.3:

Revise and distribute the District Disadvantaged Business Enterprise (DBE) Standard Operating Procedures to include the following policy and procedures changes:

- a) Timeframe in which the Commercially Useful Function (CUF) review must be performed after a DBE initiates work on a project and by which date the CUF review must be completed.
- b) Timeframe in which the District DBE Coordinators need to review and approve completed CUF reviews.
- c) Procedures for District DBE Coordinators and Division DBE Liaisons to track whether a CUF review has been performed using the contractor tracking system-generated CUF reports.
- d) Attach all CUF review supporting documentation in the system of record or other agreed upon location if the system does not have upload functionality.
- e) CUF review requirements:
 - Perform CUF reviews for DBE prime contractors
 - Identify which sections of the CUF form should be completed by inspectors and record keepers
- f) Procedures for District DBE Coordinators and Division DBE Liaisons to use a CUF checklist to verify whether a CUF review has been performed.

Completion Date: December 15, 2018

MAP 1.4:

Revise and distribute Commercially Useful Function (CUF) form for the districts and divisions to utilize:

- a) Include separate sections of the CUF form to be completed by the inspectors and record keepers.
- b) Configure the form to populate sections applicable to the work performed by the Disadvantaged Business Enterprise (e.g., subcontractor, material supplier, and hauler).

Completion Date: December 15, 2018

MAP 1.5:

Develop a Commercially Useful Function (CUF) checklist for the districts, divisions, and consultants to use to verify whether a CUF review has been performed. Include the checklist and procedures in the Civil Rights Division's Disadvantaged Business Enterprise Standard Operating Procedures.

Completion Date: December 15, 2018

MAP 1.6:

Conduct a mandatory WebEx for district/division staff and consultants to discuss and provide training on the following:

- a) Commercially Useful Function (CUF) review requirements
- b) Updates to the Standard Operating Procedures
- c) System CUF reports
- d) Revisions to the CUF form
- e) CUF checklist

Completion Date: December 15, 2018

MAP Owner: Dan Neal, PEPS Center Excellence Section Director, Professional Engineering Procurement Services Division

MAP 1.7:

Professional Engineering Procurement Services (PEPS) management will provide guidance to appropriate staff to adhere to the division's procedures for performing Commercially Useful Function (CUF) reviews. Guidance will be done through all of the following:

- Monthly PEPS Strategy Board meeting, conducted with division leadership,
- Monthly PEPS Contract Specialist meetings, and
- Through email communication to all PEPS division employees.

Completion Date: September 15, 2018

MAP 1.8:

Professional Engineering Procurement Services (PEPS) Center of Excellence (COE) will conduct an assessment of the division's Commercially Useful Function (CUF) review performance approximately six months after the email communication referenced in MAP 1.7. After the initial six month check, assessments will be done on an annual basis.

Completion Date: March 15, 2019

Finding No. 2: Validation and Monitoring of Disadvantaged Business Enterprise (DBE) Payments**Condition**

Validation and monitoring of monthly project payments made to DBE firms requires improvement to properly reflect project-level and overall DBE goal attainment. Oversight of the process for monitoring monthly payments is insufficient to ensure accuracy of DBE payment information.

Effect/Potential Impact

Failure to identify and correct erroneous or incomplete DBE payment information for each project will impact the accuracy of the consolidated DBE expenditure information that is reported to the U.S. Department of Transportation (U.S. DOT). As TxDOT's achievement of the overall DBE goal is calculated based on this expenditure data, over- or under-stated expenditure amounts will have an impact on whether TxDOT successfully meets the agency-wide DBE goal.

Criteria

TxDOT's DBE Coordinator standard operating procedures require the DBE Coordinator or their designee to monitor all monthly expenditure reports and confirm that all DBEs are reported appropriately and that proper DBE goal credit is applied for expenditures made to DBE firms.

Cause

The Civil Rights Division's (CIV's) standard operating procedures require that districts and divisions establish a process for validating and monitoring monthly expenditure data; however, the process is inconsistent and the adequacy of review varies since each district and division is responsible for establishing their own process.

DBE Coordinators were also not aware that adjustments to the DBE expenditure amounts (e.g., corrections or disallowance of DBE goal credit) must be completed when identified. Any required adjustments must be made within the reporting period (i.e., federal fiscal year) in order to ensure that accurate expenditure information is reported to federal agencies.

Evidence

Testing of monthly expenditure reporting was performed for 93 projects that were active between September 2016 and February 2018, including work authorizations and grants, across fifteen districts and three divisions. A total of 272 monthly expenditure reports were assessed for oversight (170 not reviewed and 102 reviewed), completeness, and accuracy. Testing identified approximately \$1.4 million in DBE payment errors in 34 monthly expenditure reports, including:

- 18 of 170 (11%) monthly expenditure reports that did not show evidence of oversight by a DBE Coordinator.
- 16 of 102 (16%) monthly expenditure reports that showed evidence of oversight by a DBE Coordinator.

Types of errors identified included unrecorded or inaccurately recorded DBE expenditure data and expenditure information reported but not maintained within the TxDOT system of record.

Management Action Plans (MAPs):

MAP Owner: Dave Tovar, Contract Compliance Section Director, Civil Rights Division (CIV)

MAP 2.1:

Revise and distribute Civil Rights Division's Disadvantaged Business Enterprise (DBE) Standard Operating Procedures to include the following policy and procedures changes:

- a) Requirement that adjustments to DBE expenditure amounts (e.g., corrections or disallowance of DBE goal credit) must be completed when identified; and establish a timeframe for completion.
- b) Compare monthly DBE payments amounts on the Monthly Progress Payment Form with the system of record to verify amounts agree.
- c) Include expenditures for all DBEs (race conscious and race neutral).

Completion Date: December 15, 2018

MAP 2.2:

Develop a checklist for the districts/divisions and consultants to validate and monitor Disadvantaged Business Enterprise (DBE) payments. Include the checklist and procedures in the Civil Rights Division's DBE Standard Operating Procedures.

Completion Date: December 15, 2018

MAP 2.3:

Conduct a mandatory WebEx for district/division staff and consultants to discuss and provide training on the following:

- a) Disadvantaged Business Enterprise (DBE) requirements for monitoring and validating DBE payments
- b) Updates to the Standard Operating Procedures
- c) DBE Payments Checklist

Completion Date: December 15, 2018

Finding No. 3: Disadvantaged Business Enterprise (DBE) Data Compilation and Reporting**Condition**

Complex processes for compiling the \$527.4 million in DBE expenditures reported for Fiscal Year (FY) 2017 did not allow for 1) assurance of and 2) efficiency in reporting. DBE expenditure data originates from eight divisions, who maintain data in a manual spreadsheet or in one of four reporting systems used by divisions.

Effect/Potential Impact

Without a consistent process to compile data within each division, as well as, for the agency as a whole, TxDOT has limited assurance that the information being reported to federal agencies is accurate and complete. This would also impact TxDOT's achievement of the agency's overall DBE goal when information is not being entered in a complete and timely manner.

Criteria

Code of Federal Regulations, Title 49, Part 26, requires recipients of U.S. Department of Transportation (U.S. DOT) funds to keep accurate data regarding the contracting opportunities available to firms paid for with U.S. DOT dollars, including DBE expenditures. This data is documented on the Uniform Report of DBE Awards/Commitments and Payment (DBE Uniform Report), which must be submitted semi-annually and annually to the Federal Highway Administration (FHWA) and Federal Transit Administration (FTA) and to the Federal Aviation Administration (FAA) on an annual basis.

Cause

The process for compiling DBE data into the DBE Uniform Report has not been formalized or standardized using one template or reporting stream to help drive efficiency. Within the individual divisions reviewed, there are no documented policies and procedures in place for the process to extract and compile DBE data for submission to the Civil Rights Division (CIV). In addition, CIV has not finalized or implemented documented procedures for the consolidation of the divisions' DBE information, as well as, for submission of DBE Uniform Reports to U.S. DOT agencies.

Evidence

Evaluation of the annual DBE Uniform Report submitted to FHWA for FY 2017 identified the following:

- The process for completing the DBE Uniform Report for submission to FHWA consists of multiple levels of data extraction, submission, and consolidation:
 - Divisions are each responsible for extracting DBE data from their reporting system and submitting the information to CIV.
 - CIV utilizes a manual process to consolidate the data received from the divisions and calculate the agency-wide DBE information that is entered into the DBE Uniform Report.
- Key data fields (e.g. total dollars paid, number of DBEs, etc.) included in the DBE Uniform Report could not be traced to supporting data.

Additionally, CIV does not complete and submit all federally-required reporting for the DBE program. The DBE Uniform Report for aviation grants is completed and submitted electronically to the FAA by the Aviation Division (AVN) without going through CIV for review or submission.

Management Action Plans (MAPs):**MAP Owner:**

Michael D. Bryant, Director, Civil Rights Division

MAP 3.1:

Civil Rights Division (CIV) will develop a process for divisions to use a standardized data collection tool to submit Disadvantaged Business Enterprise (DBE) contracting data maintained outside of the contractor tracking system. The tool will contain the divisions' raw data in a format that can be used to complete the DBE Uniform Reports for the U.S. Department of Transportation. The process will be documented and communicated to divisions that utilize DBEs.

Completion Date: February 15, 2019

MAP 3.2:

Civil Rights Division (CIV) will define measures needed for Disadvantaged Business Enterprise (DBE) data to be validated by divisions prior to submitting the data to CIV via the standardized data collection tool. On a quarterly basis, CIV will analyze the data to verify the validation procedures and provide instructional feedback to the divisions as necessary.

Completion Date:

February 15, 2019

MAP 3.3:

Civil Rights Division will develop documented procedures for the consolidation of Disadvantaged Business Enterprise (DBE) data as applicable, and review, approval, and submission of the DBE Uniform Report to the following operating administrations:

- Federal Highway Administration
- Federal Aviation Administration
- Federal Transit Administration

Completion Date:

February 15, 2019

Finding No. 4: Efficiency of Data Consolidation for Historically Underutilized Business (HUB) Reporting**Condition**

Inefficiencies exist in the current process to consolidate and validate TxDOT's HUB expenditure data for external reporting to the Texas Comptroller of Public Accounts (CPA). The manual process consists of identifying HUB firms and compiling data from 10 divisions that can report as many as 14,000 transactions per month.

Effect/Potential Impact

The manual reporting process could result in reporting inaccuracies in HUB expenditure data, impact operational continuity, and limit TxDOT's ability to otherwise allocate resources.

Criteria

In accordance with Texas Government Code Chapter 2161, state agencies are required to maintain and compile information relating to the use of HUBs on a monthly basis, including the total dollar amount of purchases and payments made under contracts awarded to HUBs. This information must be submitted to the CPA no later than March 15 and September 15 of each year.

Cause

The Civil Rights Division's (CIV's) HUB Program Standard Operating Procedures do not establish a standardized template for detailed data collection for each division to submit required HUB data for inclusion in the Semi-Annual and Annual HUB Report. Furthermore, although a template for summary-level subcontractor expenditures is provided, the communication from CIV indicates that use of the template is optional.

Lastly, not all divisions use vendor identification numbers (VINs) or the same unique VINs that are used for HUB reporting since the data is provided to TxDOT from different sources, such as third-party procurement card vendor and prime contractors.

Evidence

A manual process is used to compile HUB and non-HUB expenditure data from 10 divisions for reporting to the CPA. Review of the data reporting process for the Fiscal Year 2017 Annual HUB Report, which contained more than 67,000 lines of expenditure data, identified the following inefficiencies:

- HUB expenditure data provided to CIV for inclusion in the Semi-Annual and Annual HUB Reports is formatted inconsistently between divisions and requires manual adjustments by CIV to format the data as required by the CPA.
- Maintaining and updating the vendor HUB certification status database that CIV has created to store VIN data is also an ongoing manual process performed by CIV staff. The VINs used to validate vendors' HUB certification status are not consistently available or correct within the expenditure data provided and must be individually researched to confirm the correct VIN through public databases such as the CPA's taxpayer search.

Management Action Plans (MAPs):**MAP Owner:**

Michael D. Bryant, Director, Civil Rights Division

MAP 4.1:

Civil Rights Division will develop a process for divisions to use a standardized data collection tool to submit required Historically Underutilized Business (HUB) data. The tool will contain the divisions' raw data in a format that can be used to complete routinely required HUB reports. The process will be documented and communicated to divisions that utilize HUBs.

Completion Date:

February 15, 2019

MAP 4.2:

Civil Rights Division (CIV) will define measures needed for (HUB) data, including vendor identification numbers, to be validated by divisions before submitting the data to CIV via the standardized data collection tool. On a quarterly basis, CIV will analyze the data to verify the validation procedures and provide instructional feedback to the divisions as necessary.

Completion Date:

February 15, 2019

MAP 4.3:

Civil Rights Division will develop documented procedures for the consolidation of Historically Underutilized Business (HUB) data for submission of the Semi-Annual and Annual HUB Reports.

Completion Date:

February 15, 2019

Observation and Recommendation

Audit Observation (a): Format of Historically Underutilized Business (HUB) Expenditures Submitted by Contractors

TxDOT is not currently using the format required by the Texas Comptroller of Public Accounts (CPA) to obtain the monthly HUB subcontractor information from prime contractors. While TxDOT receives all the same information electronically, it does not require prime contractors to submit the paper copy CPA-approved Progress Assessment Report (PAR) form for expenditures in the “professional services” category. TAC Title 34, Section 20.285 requires prime contractors subject to HUB requirements to submit a compliance report to the contracting state agency on a monthly basis in the format required by the CPA. The PAR form has been established by the CPA as the required method for reporting, and there are currently no allowances for alternative reporting methods, such as electronic submission of data.

Effect/Potential Impact

Continuing to allow contractors to submit this information in a format other than the one prescribed by the CPA would result in non-compliance with CPA guidance. The information obtained from the prime contractors via the professional services contract management system is consistent with the information that would be obtained through the PAR form. As a result, TxDOT can monitor prime contractors’ compliance with HUB requirements based on the information submitted electronically.

Audit Recommendation

The Civil Rights Division (CIV) should work with the CPA to update the requirements regarding the format of HUB compliance reports in order to allow for electronic submission by the prime contractors. If this requirement is not altered, CIV should require prime contractors to submit HUB PAR forms as established by the CPA.

Summary Results Based on Enterprise Risk Management Framework

Audit Results Dashboard				
DBE and HUB Management and Reporting				
Business Objectives (Reporting, Operational, Compliance)		Scope Areas Evaluated		
		R, O, C	R, O, C	R, O, C
ERM Component	Control Activities	Goal Setting and Project Monitoring	CUF Reviews	DBE and HUB Data Reporting
Control Environment	Organizational Tone			
	Business Objective/Goal-Setting			
	Resource Capacity			
	Forecasting/Budget			
	Training and Development		1	
Risk Assessment	Risk Identification/Planning			
	Risk Assessment/Impact Analysis			
	Risk Response/Cost-Benefit Analysis			
	Business Continuity			
Control Activities	Policies/Procedure Development & Maintenance	2	1	3, 4
	Approvals/Authorizations	2	1	
	Supporting Evidence/Records Retention	2, (a)	1	3
	Segregation of Duties/System Access			
	Safeguarding Assets/Security			
Information & Communication	Information Classification			
	Information Input	2		3, 4
	Information Processing			
	Information Output			
	Internal and External Reporting			
Monitoring	Exception Reporting Review			
	Reconciliations	2		
	Root-Cause Analysis			
	Evaluations/Inspections		1	
	Management Action Plans			
Scope Area Assessment				
Rating Assessment Grid		Exemplary	Satisfactory	Needs Improvement
				Unsatisfactory

Closing Comments

The results of this audit were discussed with the Civil Rights Division Director on August 13, 2018. The Internal Audit Division appreciates the cooperation and assistance received from the Civil Rights, Aviation, Construction, PEPS, and Procurement Divisions and districts during this audit.